

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

HOWARD PEEPLES,

Plaintiff,

v.

TULSA COUNTY SHERIFF'S OFFICE,
TULSA COUNTY BOARD OF COUNTY
COMMISSIONERS, AND TULSA
COUNTY,

Defendant.

Case No. 02-CV-480-K-(J)

FILED

AUG 09 2002

Phil Lombardi, Clerk
U.S. DISTRICT COURT

ORDER

Before the Court are Defendants' Motions to Dismiss Nos. 4 and 7.

Defendants move to dismiss Plaintiff's Complaint under FED. R. CIV. P. 8(1)(a).

While FED. R. CIV. P. 8(1)(a) requires a short and plain statement, the rule also requires the claimant to set forth a sufficient amount of detail so as to give notice of the claim. A complaint the simply contained "conclusory allegations without supporting factual averments" is insufficient to state a claim on which relief can be based." *See Riddle v. Mondragon*, 83 F.3d 1197, 1212 (10th Cir. 1996) (quoting *Hall v. Bellmon*, 935 F.2d 1106, 1109 (10th Cir. 1991)). The Complaint does not even provide, in the most general terms, how or who allegedly discriminated against Plaintiff. Plaintiff does not respond to the Motions and therefore makes no effort at remedying his vague Complaint. *See National Commodity Barter Assoc. v. Gibbs*, 886 F.2d 1240, (10th Cir. 1989).

Defendants also note to the Court, that if indeed Plaintiff is attempting to file a Title VII claim under the Civil Rights Act of 1964 ("Title VII") 42 U.S.C. § 2000e et seq., he is required to file his Complaint herein within 90 days of a Dismissal and Notice of Rights from the Equal

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Opportunity Commission ("EEOC"). Plaintiff's action is was filed outside of the 90 day window. *See Witt v. Roadway Express*, 136 F.3d. 1424 (10th Cir. 1998) (upholding dismissal of plaintiff's Title VII claim for failure to file with in the 90-day period). Again, Plaintiff makes no response to the Motions discussing his failure to file withing the 90 day period.

Based on the foregoing, and Plaintiff's failure to respond to Defendants Motions, Defendant' Motions to Dismiss Nos. 4 and 7 are GRANTED.

IT IS SO ORDERED THIS 8 DAY OF August, 2002.


TERRY C. KERN, CHIEF
UNITED STATES DISTRICT JUDGE